

Assembly Concurrent Resolution

No. 163

Introduced by Assembly Members V. Manuel Perez and Ammiano
(Coauthors: Assembly Members Coto, Furutani, Hernandez,
Mendoza, Nava, and Saldana)
(Coauthors: Senators Cedillo and Negrete McLeod)

April 28, 2010

Assembly Concurrent Resolution No. 163—Relative to domestic worker rights.

LEGISLATIVE COUNSEL’S DIGEST

ACR 163, as introduced, V. Manuel Perez. Domestic worker rights. This measure would encourage greater protections in federal and state law for domestic workers.

Fiscal committee: no.

1 WHEREAS, California’s domestic workers—comprised of
2 housekeepers, nannies, and caregivers for children, persons with
3 disabilities, and the elderly—work in private households to care
4 for the health, safety, and well-being of the most important aspects
5 of Californians’ lives, their families and homes; and
6 WHEREAS, Domestic workers are the backbone of California’s
7 economy, working to ensure the health and prosperity of California
8 families and freeing others to participate in the workforce, which
9 is increasingly necessary in these difficult economic times; and
10 WHEREAS, Domestic workers across the state of California
11 have joined together to form the California Domestic Workers’
12 Coalition to achieve social and economic justice and secure

1 much-needed protections for domestic workers under California’s
2 labor laws; and

3 WHEREAS, The National Domestic Workers Alliance is
4 organizing domestic workers across the United States to end the
5 exclusion of domestic workers from federal labor protections, and
6 the International Domestic Workers Network, made up of domestic
7 worker organizations across the world, has formed to fight
8 exploitation and abuse by creating and advancing international
9 standards in the industry; and

10 WHEREAS, The treatment of domestic service workers under
11 federal and state laws has historically reflected stereotypical
12 assumptions about the nature of domestic work, specifically that
13 the relationship between employer and “servant” was “personal,”
14 rather than commercial, in character; that employment within a
15 household was not “real” productive work; and that women did
16 not work to support their families; and

17 WHEREAS, The Fair Labor Standards Act of 1938 (29 U.S.C.
18 Sec. 201 et seq.), which Congress enacted to ensure a fair day’s
19 pay for a fair day’s work, excluded domestic workers from its
20 protection at a time when 60% of African American women
21 workers were employed as domestic workers; and

22 WHEREAS, The vast majority of domestic workers are women
23 of color and immigrants who, because of race and sex
24 discrimination and fear of deportation, are particularly vulnerable
25 to unlawful employment practices and abuses; and

26 WHEREAS, Domestic workers usually work alone, behind
27 closed doors, and out of the public eye, leaving them isolated,
28 vulnerable to abuse and exploitation, and unable to advocate
29 collectively for better working conditions; and

30 WHEREAS, Domestic workers often labor under harsh
31 conditions, work long hours for low wages without benefits or job
32 security, and face termination without notice or severance pay,
33 leaving many suddenly without both a job and a home; and

34 WHEREAS, Most domestic workers work to support families
35 and children of their own and more than half are primary income
36 earners, yet two-thirds of domestic workers earn low wages or
37 wages below the poverty line; and

38 WHEREAS, Many live-in domestic workers are not permitted
39 to make basic decisions regarding the food they eat or to cook or
40 heat their meals; and

1 WHEREAS, In the worst cases, domestic workers are verbally
2 and physically abused or sexually assaulted, forced to sleep in
3 conditions unfit for human habitation, and stripped of their privacy
4 and dignity; and

5 WHEREAS, Many employers desire to treat their caregivers
6 and housekeepers fairly, but do not have the information to guide
7 them in setting terms of employment, and may never develop a
8 formal contract or clearly establish the rights and obligations each
9 party owes to the other; and

10 WHEREAS, Domestic workers are still excluded from the most
11 basic protections afforded the rest of the labor force under state
12 and federal law, including the rights to fair wages, safe and healthy
13 working conditions, workers' compensation, protection from
14 discriminatory and abusive treatment, and to engage in collective
15 bargaining; and

16 WHEREAS, Domestic workers are excluded under the National
17 Labor Relations Act (29 U.S.C. Sec. 151 et seq.), leaving them
18 unprotected when asking for respect of their basic rights and unable
19 to collectively bargain for conditions allowing them to labor in
20 dignity; and

21 WHEREAS, Domestic workers whose primary work is to care
22 for children, the elderly, or persons with disabilities are excluded
23 from overtime protections, meal and rest breaks, and reporting
24 time pay under California law, and the federal Fair Labor Standards
25 Act exempts live-in domestic workers from overtime provisions
26 and exempts "companions" for the elderly and "casual" babysitters
27 from federal minimum wage and overtime provisions; and

28 WHEREAS, Domestic workers are excluded from the
29 protections of the California Occupational Safety and Health Act
30 of 1973 and therefore do not have the right to work in a healthy
31 and safe environment, leaving them exposed to dangerous and
32 unhealthy working conditions on a regular basis; and

33 WHEREAS, Household employees who work less than 52 hours
34 in the 90 days prior to sustaining an injury are excluded from
35 California workers' compensation coverage, leaving many
36 domestic workers without an adequate remedy for injuries suffered
37 in the course of their employment; and

38 WHEREAS, Because state and federal antidiscrimination laws
39 apply only to employers with certain minimum numbers of
40 employees, domestic workers are often unprotected against

1 discrimination based on race, color, religion, sex, national origin,
2 age, and disability; and

3 WHEREAS, Because domestic workers do not have the right
4 to a minimum number of consecutive hours of uninterrupted sleep,
5 they are often woken up repeatedly throughout the night, leaving
6 them sleep-deprived, vulnerable to illness, and unable to provide
7 proper care for those in their charge; and

8 WHEREAS, Because the vast majority of domestic workers
9 receive no health benefits from their employers and have no right
10 to paid sick days, many workers cannot take time off to deal with
11 illness or medical emergencies, thereby endangering their own
12 health and the health of the families they care for; now, therefore,
13 be it

14 *Resolved by the Assembly of the State of California, the Senate*
15 *thereof concurring*, That coverage of domestic workers under state
16 and federal labor law should be an expression of respect for their
17 dignity and equality and the importance of the work they perform,
18 and a rejection of antiquated and long-discredited stereotypes about
19 domestic work; and be it further

20 *Resolved*, That the Legislature finds that domestic workers are
21 entitled to industry-specific protections and labor standards that
22 eliminate discriminatory provisions in the labor laws and guarantee
23 domestic workers basic workplace rights to ensure that domestic
24 workers are treated with the respect and dignity they so richly
25 deserve; and be it further

26 *Resolved*, That the Chief Clerk of the Assembly transmit copies
27 of this resolution to the author for appropriate distribution.